

The evidence shows that claimant was in an automobile accident in August 1997. Claimant testified she suffered a neck injury in this accident, not an injury to her right wrist. Following the accident, claimant was off work. She returned to work January 15, 1998. Claimant was in a second automobile accident January 27, 1998. According to claimant, the second accident was a minor accident but she did have some injury to her left hip and left foot.

As to the right wrist injury, claimant testified she began having symptoms, pain and swelling, in her right wrist shortly after she returned to work in January 1998. When she returned, she worked as a hand finisher, sanding parts with a power tool. Claimant also testified she immediately notified her then acting supervisor that the work was causing problems in her wrist. The supervisor told her to return to work. On February 1, 1998, claimant went on her own to the emergency room at Wesley Medical Center. The records from the emergency room visit contain a history of symptoms beginning two days after returning to work as a sander and state there was no injury.

Claimant saw Dr. Michael P. Estivo the next day, February 2, 1998. The records from that visit show a history of right wrist pain since she returned to work. Dr. Estivo had seen claimant shortly before she returned to work for residuals from the August automobile accident. The record also contains a letter from Dr. Estivo which expresses his opinion that the wrist injury is from claimant's work.

Claimant later saw Dr. James L. Gluck and Dr. Roger M. Miller, and respondent suggests it is clear both concluded the right wrist injury was not work related. But review of the records from those two physicians does not, in fact, produce such a clear picture. Dr. Miller's records do include a form with a box checked indicating claimant's injury is not work related. But the form refers not only to the wrist injury but also to the hip and foot. Review of the other records reveal no express opinion about the cause of the wrist problems. Dr. Gluck may have turned billing in to the automobile insurance carrier, but his records also include a history from claimant attributing the wrist problem to her work. The Board does not agree with respondent that the medical records show the injury was not work related. In fact the early records, and Dr. Estivo's express opinion, support claimant's contention that it was.

There is essentially no evidence to support the suggestion that claimant's injury resulted from her work as a hairdresser. Claimant testified she worked as a hairdresser three to four hours per week. The fact she worked as a hairdresser appears in the medical records but not as a cause of her wrist condition.

Taken as a whole, the Board finds the evidence supports the finding that claimant's right wrist injury arose out of and in the course of her employment with respondent.

The Board also finds claimant made a timely written claim. The Board accepts as true claimant's testimony that she gave notice. This testimony is uncontroverted. Respondent's brief acknowledges that it did not file an Employer's Report of Accident. Claimant therefore had one year to make a written claim. The written claim of January 21, 1999, was within one year of the date of accident, the last day worked in March 1998.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge John D. Clark on September 28, 1999, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of December 1999.

BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS
Eric K. Kuhn, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director